

**Before the  
Federal Communications Commission  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Application of Sprint Corporation</b>	)	
<b>For Designation as an Eligible</b>	)	
<b>Telecommunications Carrier in the</b>	)	<b>CC Docket No. 96-45</b>
<b>State of New York</b>	)	
	)	
<b>Federal-State Joint Board on</b>	)	
<b>Universal Service</b>	)	

**COMMENTS OF  
THE NEW YORK STATE TELECOMMUNICATIONS ASSOCIATION, INC.**

Robert R. Puckett, President  
Louis Manuta, Esq.  
New York State Telecommunications  
Association, Inc.  
100 State Street  
Suite 650  
Albany, New York 12207  
518-443-2700  
518-443-2810 (FAX)

November 6, 2003

**Before the  
Federal Communications Commission  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Application of Sprint Corporation</b>	)	
<b>For Designation as an Eligible</b>	)	
<b>Telecommunications Carrier in the</b>	)	<b>CC Docket No. 96-45</b>
<b>State of New York</b>	)	
	)	
<b>Federal-State Joint Board on</b>	)	
<b>Universal Service</b>	)	

**COMMENTS OF  
THE NEW YORK STATE TELECOMMUNICATIONS ASSOCIATION, INC.**

On September 26, 2003, the Federal Communications Commission (“FCC” or “Commission”) released for comment the Petition for Eligible Telecommunications Carrier (“ETC”) status by Sprint Corporation (“Sprint”) for the non-rural incumbent local exchange carrier service areas of Verizon New York and Frontier Telephone of Rochester in the State of New York.<sup>1</sup> Sprint had filed its Petition with the FCC on September 2, 2003 requesting approval, stating that it satisfies all of the statutory and regulatory prerequisites for ETC designation, and that its designation as an ETC will serve the public interest.

---

<sup>1</sup> *Wireless Competition Bureau Seeks Comment on Sprint Corporation’s Petition for Designation as an Eligible Telecommunications Carrier in New York*, CC Docket No. 96-45, Public Notice, DA 03-2961 (released September 26, 2003). The Notice regarding the request for comment appeared in the *Federal Register* on October 27, 2003, 68 Fed. Reg. 61216 (2003).

The New York State Telecommunications Association, Inc. members enumerated in Attachment I (“NYSTA”) hereby express their interest in Sprint’s Petition.<sup>2</sup> As with other Commercial Mobile Radio Service (“CMRS”) provider filings for ETC status, especially that of NPCR, Inc. d/b/a Nextel Partners (“Nextel”) in New York State,<sup>3</sup> these NYSTA member companies have financial and policy concerns regarding the grant of any CMRS ETC petition. While several of the issues these companies have with Nextel’s filing are not present in Sprint’s -- primarily that Sprint limited its request to the non-rural areas of the state -- the issues raised by Sprint’s filing, as enumerated in NYSTA’s comments on the Nextel filing,<sup>4</sup> continue to raise concerns for the NYSTA member companies included on Attachment I. In addition, these companies believe that consideration of Sprint’s request should be held in abeyance until such time as the Commission resolves pending ETC eligibility and USF funding issues, which are being considered in a separate proceeding.<sup>5</sup>

Sprint is a licensed CMRS provider throughout New York State. However, in order to become an ETC, a carrier must demonstrate that designation is in the public

---

<sup>2</sup> The member companies of NYSTA concurring in this filing appears as Attachment I.

<sup>3</sup> *Wireless Competition Bureau Seeks Comment on Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in New York*, CC Docket No. 96-45, Public Notice, DA 03-2329 (released July 16, 2003).

<sup>4</sup> Comments of the New York State Telecommunications Association, Inc., *Wireless Competition Bureau Seeks Comment on Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in New York*, CC Docket No. 96-45, Public Notice, DA 03-2329 (August 18, 2003).

<sup>5</sup> *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, CC Docket No. 96-45 (released February 7, 2003).

interest and that it offers all of the services and functionalities enumerated by Section 54.101(a) of the Commission's Rules.<sup>6</sup> These services include: voice grade access to the PSN, local usage, dual tone multi-frequency switching (or its equivalent), single party service (or its equivalent), access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation for qualifying low-income customers. In addition, all ETCs are required to provide LifeLine service. As required by the FCC's Rules, Sprint maintains that it does offer all of these services throughout the designated areas in which it seeks certification.<sup>7</sup>

As referenced in NYSTA's comments opposed to Nextel's ETC Petition, it is questionable whether wireless services can enhance competition in New York State, even if ETC designation is granted.<sup>8</sup> These services are an adjunct to wireline service and are not considered to be a replacement or substitute for the landline services offered by Verizon or Frontier. Accordingly, there is no record to indicate that Verizon or Frontier customers would cancel their landline service in order to become Sprint customers exclusively.

Further, an unlevel playing field would be created by grant of a wireless ETC petition because state commissions must annually certify that the ETCs it approved are

---

<sup>6</sup> 47 CFR 54.201(d) and 47 CFR 54.405.

<sup>7</sup> 47 CFR 54.101(a).

<sup>8</sup> Comments of the New York State Telecommunications Association, Inc., *Wireless Competition Bureau Seeks Comment on Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in New York*, CC Docket No. 96-45, Public Notice, DA 03-2329, at pp. 9-10.

using federal high-cost support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”<sup>9</sup> This requirement only falls on wireline ETCs in New York State as the New York State Public Service Commission (“NYSPSC”) claims in the note included in Nextel’s and Sprint’s Petitions that it has no jurisdiction over wireless ETCs.<sup>10</sup> ETCs not subject to state jurisdiction must merely certify on their own.<sup>11</sup> The NYSPSC’s requirements in issuing these certifications certainly exceed the self-certification “burden” which would be placed on wireless ETCs in the state.

Additionally, should the Commission grant Sprint’s request, Sprint will be able to draw from the federal Universal Service Fund. By its seeking ETC status only in Verizon and Frontier’s territories, only a fairly limited amount of USF support would be available to Sprint. However, the concerns expressed with regards to the Nextel application continue to apply in this instance.

First, the granting of ETC status to wireless carriers will, overall, continue to place demands on the federal USF. In total, we believe the granting of ETC status will create untenable demands on the federal USF with little benefit to all customers, especially those situated in rural America. This is the reason, as noted in our comments

---

<sup>9</sup> 47 CFR 54.314(a).

<sup>10</sup> Nextel included a note in its FCC application from the NYSPSC that under the state Public Service Law it does not have jurisdiction to consider the Petition. It cited to Section 5 of the PSL which indicates that the NYSPSC does not have jurisdiction until such time as it makes a determination after a notice and comment period that reinstituted regulation is in the public interest. Sprint included a copy in its Petition. See: N.Y. Pub. Serv. Law §5(3).

<sup>11</sup> 47 CFR 54.314(b).

opposed to Nextel's filing, that overall policy determinations should be made with regards to universal service funding issues *prior* to the granting of individual wireless carrier ETC status. In fact, in a separate proceeding at the Commission, important issues surrounding USF eligibility and ETC designation are currently being debated.<sup>12</sup> Accordingly, it is the position of the carrieris identified on Attachment I to have consideration of all wireless ETC petitions postponed until those issues are resolved, as referenced in our comments opposed to Nextel's ETC Petition.<sup>13</sup>

Otherwise, Sprint's success in tapping into the federal USF will likely inspire every other CMRS provider in New York State to do the same in all areas of the state. As this Commission is aware, Nextel Partners has already filed an ETC Petition for rural and non-rural portions of New York State with the FCC.<sup>14</sup> While the amount of USF support in Sprint's current petition is limited when compared with other requests for ETC status in rural areas of New York State, should all CMRS providers receive ETC status, the cumulative effect on the USF will be untenable.

---

<sup>12</sup> *See*: fn. 5 *supra*.

<sup>13</sup> Comments of the New York State Telecommunications Association, Inc., *Wireless Competition Bureau Seeks Comment on Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in New York*, CC Docket No. 96-45, Public Notice, DA 03-2329, at pp. 13-14.

<sup>14</sup> NPCR, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of New York (filed April 3, 2003). *See also*: NPCR, Inc. d/b/a Nextel Partners Erratum to Petition for Designation as an Eligible Telecommunications Carrier in the State of New York (filed April 9, 2003) which clarifies that Verizon and Frontier Telephone of Rochester are non-rural LECs and breaks out the Verizon wire centers served by Nextel Partners. ("Nextel Petition").

It is for the above reasons that NYSTA respectfully requests the Commission consider the impact grant of Sprint's Petition may have on all local exchange carriers in New York State.

Respectfully submitted,

**NEW YORK STATE TELECOMMUNICATIONS  
ASSOCIATION, INC.**

- S -

Robert R. Puckett, President

- S -

Louis Manuta, Esq.

100 State Street  
Suite 650  
Albany, New York 12207  
518-443-2700  
518-443-2810 (FAX)

Dated: November 6, 2003

## **Attachment I -- Member Companies Concurring in this Filing**

Armstrong Telephone Company  
Berkshire Telephone Corporation  
Cassadaga Telephone Corporation  
Champlain Telephone Company  
Chautauqua & Erie Telephone Corporation  
Chazy & Westport Telephone Corporation  
Citizens Communications  
Citizens Telephone Company of Hammond, NY  
Crown Point Telephone Corporation  
Delhi Telephone Company  
Dunkirk & Fredonia Telephone Company  
Empire Telephone Corporation  
Fishers Island Telephone Company  
Frontier Communications of AuSable Valley  
Frontier Communications of New York  
Frontier Communications of Seneca-Gorham  
Frontier Communications of Sylvan Lake  
Frontier Telephone of Rochester  
Germantown Telephone Company, Inc.  
Hancock Telephone Company  
Margaretville Telephone Company, Inc.  
Middleburgh Telephone Company  
Newport Telephone Company, Inc.  
Nicholville Telephone Company  
Ogden Telephone Co. (Citizens)  
Oneida County Rural Telephone Company  
Ontario Telephone Company, Inc.  
Pattersonville Telephone Company  
State Telephone Company  
Taconic Telephone Corporation  
TDS Telecom -- Deposit Telephone  
TDS Telecom -- Edwards Telephone  
TDS Telecom -- Oriskany Falls Telephone  
TDS Telecom -- Port Byron Telephone  
TDS Telecom -- Township Telephone  
TDS Telecom -- Vernon Telephone  
Trumansburg Telephone Company  
Verizon-New York  
Warwick Valley Telephone Company